IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 782 OF 2007

Arvindersingh Darshansingh Bhatia .....Petitioner.

V/s

State of Maharashtra & Ors. ..... Respondents.

Mr. S.V. Sadavarte for the Petitioner.

Mr. Niranjan Pandit, AGP for the Respondents.

CORAM: V.M. KANADE, J.
DATE : 12th April 2007

P.C.

1. Rule.

2. Rule is made returnable forthwith by consent of the Parties. Respondents waive service.

3. Heard the learned Counsel appearing on behalf of the Petitioner and the learned Counsel appearing on behalf of the Respondents.

4. The Petitioner is challenging the order passed by the Commissioner of Police, Mumbai who has, by the impugned

order, cancelled the licence which was issued in favour of the Petitioner.

5. Brief facts are that the Petitioner was running a Restaurant and Bar. A show cause notice was issued by the Respondents asking the Petitioner to show cause why his license should not be cancelled. A composite reply was given by the Petitioner to the said notice in which explanation was given by the Petitioner to the allegations which were made against him in the show cause notice. It is submitted that, however, by an ex parte order dated 07/03/2007 which was passed by the Commissioner, the police license which was granted in favour of the Petitioner was cancelled. It is submitted by the learned Counsel appearing on behalf of the Petitioner that there is a breach of principles of natural justice and that the Commissioner ought to have given him hearing before passing the impugned order. It is submitted that initially an intimation was given by the Petitioner on 01/03/2006 that the Petitioner was closing down the business for the purpose of renovating the said premises and for other reasons. He has stated that, therefore, the notices

which were served were on the hotel premises which were closed and, therefore, the Petitioner was unable to attend the hearing before the Commissioner. He submitted that the Petitioner has given intimation to the Respondents that he is going to restart his hotel business from 01/04/2007 and that, in fact, he has started running his business at the said place. He submits, that, therefore, the impugned order be set aside and the matter be remanded to the Commissioner with a direction to give personal hearing to the Petitioner. It is submitted that, in the meantime, the Petitioner may be permitted to run his business as he has all the requisite licenses in his favour.

6. Mr. Pandit, the learned AGP appearing on behalf of the Respondents, on the other hand, invited my attention to the impugned order. He submitted that the Commissioner has recorded that though four notices were served on the Petitioner, he remained absent on each and every date and, therefore, the Commissioner had no alternative but to pass the impugned order on the basis of the material which was available. He submitted that all these notices were received

by the Petitioner or his employees and, therefore, the submission of the Counsel for the Petitioner that the Petitioner was not served is not correct.

7. In my view, the Commissioner ought to have given hearing to the Petitioner before passing the impugned order. It is no doubt true that, prima facie, it does appear that four notices were issued by the Commissioner and the acknowledgment of receipt of the said notices has been given by the Petitioner's employees or some person on his behalf. Further, it is also admitted position that the Restaurant of the Petitioner was closed from 01/03/2006. It is, therefore, possible that though the notices were served at the hotel, the same may not have been communicated to the Petitioner by his employees. Therefore, giving him this benefit of doubt, the matter is remanded to the Commission.

8. Under these circumstances, the impugned order is set aside. The Petitioner shall appear before the Commissioner on 16/4/2007. The Commissioner shall decide the case as expeditiously as possible after giving personal hearing to the

Petitioner within a period of two weeks. The Petitioner is at liberty to apply to the Commissioner, seeking permission to run the hotel in the meantime. The Commissioner may, if such an application is received by him, decide it in accordance with law. Rule is made absolute in the above terms.

9. With these directions Writ Petition is disposed of.

(V.M. KANADE, J.)